



HERMOSA BEACH POLICE DEPARTMENT

O3.08 AUDIO/VIDEO RECORDING

Replaces O3.09

Effective 10/27/2009

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PURPOSE AND SCOPE

This policy provides guidelines for the use of all audio/video recording devices by members of the Hermosa Beach Police Department while in the performance of their duties. An audio/video recording device includes but is not limited to a mobile audio/video system, body-worn camera, handheld recorder, and fixed security camera.

Audio and video recording of contacts between Department members and the public provides an objective record of events. The use of a recording system assists Department members in the performance of their duties by providing a digital record of enforcement and investigations. A recording of an event or contact also enables the delivery of timely, relevant and appropriate training to maximize safety for Department members and to improve the provision of services to the community.

(CALEA 41.3.8 a)

DEFINITIONS

Definitions related to this policy include:

Activate - Any process that causes the recording system to transmit or store video or audio data in an active mode.

Body worn camera (BWC) -Any device that captures audio and video that is capable of being worn on an officer's person.

Digital media technician – A Department member who is certified or trained in the operational use of all recording systems, duplicating methods, storage and retrieval procedures, and who has a working knowledge of video forensics and evidentiary procedures.

Digital Evidence Management System (DEMS) - A management system designed to digitally collect, store, secure, disseminate, and purge recorded media. The digital recordings are accessible to authorized Department members. The management system also maintains an audit trail of user activity.

Fixed security camera - A Department-issued device that is positioned in a fixed location, including but not limited to all monitoring systems, building security-recording systems, and public safety camera systems, and records audio/video signals.

Mobile Audio/Video (MAV) system - Any system that captures audio and video signals, is capable of installation in a vehicle, and includes at a minimum a camera, microphone, recorder, and monitor. An "in car camera system" is a synonymous term for a MAV

Personally-owned handheld recorder – A recording device, including but not limited to a cellular telephone, camera, handheld video recorder, handheld voice recorder, that is used by the Department member during his/her shift, but not owned by the Department.

Handheld recorder - A Department-issued recording device, including but not limited to a cellular telephone, camera, handheld video recorder, handheld voice recorder, that is used to the Department member for use during his/her shift.

Recorded media – Audio or video signals that are recorded or digitally stored on a storage device or portable media.

Portable Recording system – MAV, BWC, and Handheld Recorder.

POLICY

It is the policy of the Department to use audio/video recording devices to more effectively fulfill the Department's mission by accurately capturing contacts between members of the Department and the public and to ensure these systems are used securely and efficiently.

The Department has equipped patrol cars with MAV recording systems to record events and assist officers. Additionally, the Department will assign BWCs to designated Department employees, including sworn Police Officers and Community Service Officers, for use during the performance of their duties. With prior approval, Department employees may also use other portable recording devices during the performance of their duties.

The Department also uses fixed security cameras to monitor the Department's jail and downtown Pier Plaza area.

At least annually, the Investigative/Administrative Services Division Commander will conduct a documented review of this policy to ensure it complies with current law and best practices.

COORDINATOR

The Chief of Police or the authorized designee shall appoint a member of the Department to coordinate the use and maintenance of audio/video recording devices and the storage of recorded media, including (in consideration of Penal Code § 832.18):

- a) Establish a system for downloading, storing and securing recorded media
- b) Designate persons responsible for downloading recorded media.
- c) Ensure recorded media is stored in a secure location with authorized controlled access
- d) Establish a maintenance system to ensure availability of operable audio/ video recording devices.

- e) Establish a system for flagging, tagging and categorizing recorded media according to the type of incident
- f) Establish a system to prevent tampering and improperly deleting or copying recorded media to ensure chain of custody integrity.
- g) Work with counsel to ensure an appropriate retention schedule is being applied to recorded media and associated documents.
- h) Maintain logs of access, copies, and deletions of recorded media to assist in the Department's audit responsibility and chain of custody integrity.
- i) Order, issue, and retrieve all audio/video recording devices pursuant to an identified procedure.
- j) Assign all audio/video recording devices an identification number prior to issuance to Department employees or vehicles
- k) Maintain a record of issued audio/video recording devices.
- l) Ensure that an adequate supply of recording media storage is available.
- m) Manage the long-term storage of media that has been deemed to be of evidentiary value in accordance with the Department's evidence storage protocols and records retention schedule.
- n) Erase recorded media:
 - Pursuant to a court order or
 - In accordance with established records retention schedule

TRAINING

Employees, including supervisors, shall not use audio/video recording devices unless they have successfully completed training in the proper use of such equipment. All introductory training for MAV and BWC shall be documented in the appropriate training file.
(CALEA 41.3.8f)

EMPLOYEE PRIVACY EXPECTATION

All recorded media on any audio/video recording device or made by an employee while acting in an official capacity for this Department, regardless of the ownership of the device. On which the recorded media was made shall remain the property of the Department. Members shall have no expectation of privacy or ownership interest in the content of these recordings.

EMPLOYEE RESPONSIBILITIES

Prior to going into service, each officer will properly equip him/herself to record audio and video in the field and will be responsible for ensuring that the portable recording systems are in good working order. At the start of each shift, officers should test the recording system's operation in accordance with manufacturer specifications and department operating procedures and training. Additionally, all members shall ensure that all portable recording

systems have sufficient memory and battery to last the duration of their shift.

If any portable recording system is not in working order or the member becomes aware of a malfunction at any time, the member shall promptly report the failure to his/her supervisor and obtain a functioning device as soon as reasonably practicable.

If it is discovered that an MAV is not functioning properly, the officer shall select another vehicle (if available) and report the malfunctioning MAV to the Watch Commander, in accordance with the vehicle repair procedures set forth in this manual. If no other vehicle with a functioning MAV is available, the officer shall note, via MDC, that the vehicle he or she is using is not equipped with a functioning MAV.

(CALEA 41.3.8e)

Uniformed officers are required to wear BWCs in a conspicuous manner or otherwise notify persons that they are being recorded, whenever reasonably practicable. BWCs are to be forward facing and unobstructed by equipment, uniforms or safety gear.

Any officer assigned to a non-uniformed position may carry an approved handheld recorder at any time the officer believes that such a device may be useful. Unless conducting a lawful recording in an authorized undercover capacity, non-uniformed officers should use the handheld recorder in a conspicuous manner when in use or otherwise notify persons that they are being recorded, whenever reasonably practicable.

Officers shall document the existence of a portable recording system in any report or other official record of contact. Officers shall also document any instance where the recorder malfunctioned or the officer deactivated the recording. Reports should include the reason for deactivation.

At the end of the shift, each officer will ensure that his or her portable recording system is downloaded to the designated databases unless the officer has approval from the Watch Commander to leave the portable recording system in its dock while it finishes the downloading process. In the event an officer works at a remote location and reports in only periodically, the officer may be provided with additional storage capacity for his or her portable recording system; that officer will ensure the recordings are downloaded to the designated database upon return to the Department. Only Department identified and labeled audio/video recording devices with tracking numbers are to be used.

SUPERVISORS RESPONSIBILITIES

When an incident arises that requires the immediate retrieval of recorded media (e.g., serious crime scenes, officer-involved shootings, Department-involved collisions), a supervisor shall respond to the scene and ensure that the recorded is properly retrieved. Supervisors should take custody of the portable audio/video recording device as soon as practicable when the device may have captured an incident involving the use of force, an officer-involved

shooting or death or other serious incident. The Supervisor that obtains the recorded media shall ensure the data is downloaded in accordance with (Penal Code § 832.18). The recorded media may need to be treated as evidence and should be handled in accordance with current evidence procedures for recorded media.

Supervisors should determine if vehicles with non-functioning MAVs should be placed into service. If these vehicles are placed into service, the appropriate documentation should be made, and the Supervisor should notify Dispatch.

Supervisors may activate the MAV or BWC remotely to monitor a developing situation, such as a chase, a riot or an event that may threaten public safety, officer safety or both, when the purpose is to obtain tactical information to assist in managing the event. Supervisors shall not remotely activate the MAV or BWC for the sole purpose of monitoring the conversations or actions of an officer.

ACTIVATION OF AUDIO/VIDEO RECORDING DEVICES

This policy is not intended to describe every possible situation in which an audio/video recording device should be used, although there are many situations where its use is appropriate. Members should activate audio/video recording devices any time the member believes it would be appropriate or valuable to record an incident.

(CALEA 41.3.8b)

The portable recording systems should be activated in any of the following situations:

1. All field contacts involving actual or potential criminal conduct:
 - a) Traffic stops (to include, but not limited to, traffic violations, stranded motorist assistance and all crime interdiction stops)
 - b) Priority responses
 - c) Vehicle pursuits
 - d) Suspicious vehicles
 - e) Arrests
 - f) Vehicle searches
 - g) Physical or verbal confrontations or use of force
 - h) Pedestrian checks
 - i) Driving While Intoxicated or Driving Under the Influence investigations including field sobriety tests
 - j) Consensual encounters
 - k) Crimes in progress

- l) Responding to an in-progress call
 - m) At the request of a member of the public
- 2. All enforcement and investigative contacts including:
 - a) Field interview situations
 - b) Animal control situations
- 3. All self-initiated activity in which an officer would normally notify Dispatch
- 4. Any call for service involving a crime where the recorder may aid in the apprehension and/or prosecution of a suspect:
 - a) Domestic violence calls
 - b) Disturbance of peace calls
 - c) Offenses involving violence or weapons
- 5. Any other contact that becomes adversarial after the initial contact in a situation that would not otherwise require recording
- 6. Any other circumstance where the officer believes that a recording of an incident would be appropriate

Officers should remain sensitive to the dignity of all individuals being recorded and exercise sound discretion to respect privacy by discontinuing recording whenever it reasonably appears to the officer that such privacy may outweigh any legitimate law enforcement interest in recording. Requests by members of the public to stop recording should be considered using this same criteria. Recording should resume when privacy is no longer at issue unless the circumstances no longer fit the criteria for recording.

At no time is an employee expected to jeopardize his or her safety in order to activate or deactivate a portable recording system. However, the portable recording system should be activated in situations described above as soon as reasonably practicable.

II. CESSATION OF RECORDING

Once activated, the portable recording systems should remain on continuously until the officer reasonably believes that his/her direct participation in the incident is complete or the situation no longer fits the criteria for activation. At the officer's discretion, he/she may pause the recording. Prior to pausing, officers shall verbally specify on the portable recording system the reason for interrupting the recording. Recording may be stopped during significant periods of inactivity such as report writing or other breaks from direct participation in an incident.

Officers shall cease recording whenever necessary to ensure conversations are not recorded

between a person in custody and the person's attorney, religious advisor, or physician unless there is explicit consent from all parties to the conversation (Penal Code § 636).

III. SURREPTITIOUS USE OF RECORDING DEVICES

Department members may surreptitiously record any conversation during the course of a criminal investigation in which the Department member reasonably believes that such recording will be lawful and beneficial to the investigation (Penal Code § 633).

Department members shall not surreptitiously record another department member without a court order unless lawfully authorized by the Chief of Police or the authorized designee for the purpose of conducting a criminal or administrative investigation.

IV. EXPLOSIVE DEVICE

Many recording systems, including MAVs and BWCs emit radio waves that could trigger an explosive device. Therefore, these devices should not be used where an explosive device may be present.

PROHIBITED USE OF RECORDING DEVICES

Department members are prohibited from using department-issued portable recording systems for personal use including any off-duty assignments or outside employment.

Department members are also prohibited from personally retaining recordings of activities or information obtained while on-duty, whether the recording was created with Department-issued or personally owned handheld recorders. Department members shall not tamper, delete, or make personal copies of recordings created while on-duty or while acting in their official capacity. Department members shall not duplicate or distribute recorded media, except for authorized legitimate Department business purposes. All such recordings shall be retained at the Department.

Department members are prohibited from using personally owned handheld recorders while on-duty without the express consent of the Division Commander. Any member who uses a personally owned handheld recorder for Department-related activities shall comply with the provisions of this policy, including retention and release requirements, and should notify the on-duty supervisor of such use as soon as reasonably practicable.

Recordings shall not be used by any member for the purpose of embarrassment, harassment or ridicule.

IDENTIFICATION AND PRESERVATION OF RECORDINGS

To assist with identifying and preserving recorded media, officers shall download, flag, and tag the recorded media in accordance immediately following the termination of their shift unless the officer has permission from the Watch commander to download, flag, and tag the recorded media upon his or her return to the Department. Officers should flag and tag the recorded media with the below categories and document the existence of the recorded media in any related case report.

A member shall flag recorded media with the following Public Records Act categories to prevent inadvertent release (more than one may apply):

- a) A complainant, victim or witness has requested non-disclosure. (California Government Code Section 6254(f) (2).)
- b) A complainant, victim or witness has not requested non-disclosure but the disclosure of the recording may endanger the person. (California Government Code Section 6254(f).)
- c) Disclosure may unreasonably violate someone's right of privacy. (California Government Code Section 6254(c).)
- d) Recorded media contains medical or mental health information. (California Government Code Section 6254(c).)
- e) Disclosure may compromise an undercover officer or confidential informant.
- f) Disclosure would reveal a minor's identity. (California Government Code Section 6254(f).)

An officer shall tag the recorded media to correspond with the Department's retention schedule:

- a) Evidentiary
- b) Non-evidentiary
- c) Routine Video Monitoring
- d) Evidentiary data (involved in criminal prosecution)

An officer should promptly notify a supervisor if he or she reasonably believes that recorded media may be beneficial to an ongoing investigation or require public comment from a supervisor or the Chief.

Department members should consult with its procedure policy for more information relating to the Department's retention schedule.

(CALEA 41.3.8 b)

STORAGE AND RETENTION OF RECORDINGS

Recorded media shall be stored in appropriate DEMS or on an identified computer server and backup server.

Evidentiary data should be retained for a minimum of two years (Penal Code § 832.18(b) (5) (B) (i)-(iii)):

- Incident involving use of force by an officer or an officer-involved shooting;
- Incidents that lead to the detention or arrest of an individual; and
- Recordings relevant to a formal or informal complaint against an officer or the Department.

Recorded media containing evidence that may be relevant to a criminal prosecution should be retained for any additional period required by law for other evidence relevant to a criminal prosecution (Penal Code § 832.18 (b) (5) (C)).

Non-evidentiary data including video and audio recorded by a body-worn camera should be retained for a minimum of 180 days, after which it may be erased, destroyed, or recycled.

Records or logs of access to and deletion of recorded media should be retained permanently (Penal Code § 832.18(b) (5) (E)).

All recorded media will be downloaded, flagged, tagged, and stored in a designated secure area. (CALEA 41.3.8d)

All fixed security camera recordings that are maintained by the Department will be retained for a minimum of one year after which time it will be erased, destroyed or recycled in accordance with the established records retention schedule (Government Code § 34090.6).

RELEASE OF AUDIO/VIDEO RECORDINGS

All recorded media on any Department-issued device or made by an employee while acting in an official capacity for this Department regardless of the ownership of the device on which the recorded media was made, shall remain the property of the Department. Dissemination outside of the Department is strictly prohibited, except to the extent permitted or required by law.

Any recorded media of an incident shall not be publicly released during an ongoing investigation without the approval of the Chief of Police or their designee. Requests for the release of recorded media shall be processed in accordance with the Records Maintenance and Release Policy.

REVIEW OF RECORDED MEDIA FILES

After downloading, flagging, and tagging the recorded media, officers should review the recorded media as a resource to assist in the preparation of their written reports. Only with

prior approval of the Chief of Police or their designee, may an officer involved in a use of force resulting in serious physical injury, a shooting, or death, be permitted to review available recorded media prior to providing a recorded statement or completing reports (see the Officer-Involved Shootings and Deaths Policy for guidance in those cases). In no case shall an officer retain personal copies of recordings. Members should not rely on the fact that a recording was made to write a less detailed report.

Supervisors are authorized to review relevant recorded media at any time they are investigating alleged misconduct or reports of meritorious conduct or whenever such recordings would be beneficial in reviewing the Department member's performance. Except as provided below, supervisors should not randomly audit the database of recordings.
(CALEA 41.3.8e)

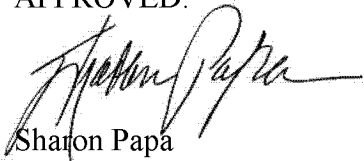
Recorded files may also be reviewed:

- a) By any member of the Department who is conducting an official investigation, such as a personnel complaint, administrative investigation or criminal investigation.
- b) If an officer is to be interviewed in the course of a personnel complaint, the involved officer, including witness officers, should be allowed, prior to being interviewed, to review a copy of the recording(s) of the incident of his/her involvement.
- c) Persons who are otherwise authorized to review evidence in a related case pursuant to the appropriate lawful process.
- d) By media personnel with permission of the Chief of Police or the authorized designee.
- e) Member of the public in compliance with a public records request, and in accordance with the Records Maintenance and Release Policy.
- f) Department members to ensure the recording system is functioning.
- g) Department members who request to review recordings for other purposes (e.g. court preparation) upon supervisory approval.
- h) Supervisors to assess possible training value. (Note: if an involved officer objects to the Department showing the recorded media, the officer's objection will be submitted to the Division Commander to determine if the training value outweighs the officer's objection.

- i) Authorized supervisors to conduct semi-annual audits of recorded media in January and July of every year. Authorized supervisors must randomly review at least six (6) media files to ensure officers are adhering to Departmental policies and procedures. Each review shall be documented on the Audio/Video Recordings Request Form.
(CALEA 41.3.8g)

All recorded media should be reviewed by the Custodian of Records prior to public release (see the Records Maintenance and Release Policy). Recordings that unreasonably violate a person's privacy or sense of dignity should not be publicly released unless disclosure is required by law or order of the court.

APPROVED:



Sharon Papa
Chief of Police